

United States District CourtWESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

CRIMINAL COMPLAINT

V.

CASE NUMBER: 06-528m

JOSEPH SIMON

(Under Seal)

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or between November 9, 2006, through November 18, 2006, in Westmoreland county, in the Western District of Pennsylvania defendant(s) did,

knowingly persuade, induce, entice or coerce any individual to travel in interstate or foreign commerce to engage in prostitution or in any sexual activity for which any person can be charged with a criminal offense, or did attempt to do so

in violation of Title 18 United States Code, Section(s) 2422(a).

I further state that I am a(n) Special Agent Official Title and that this complaint is based on the following facts:

See Attached affidavit

Continued on the attached sheet and made a part hereof: ☐ Continued ... Yes? (X)


Signature of Complainant

Sworn to before me and subscribed in my presence,

December 12, 2006

Date

at Pittsburgh, Pennsylvania

City and State

Amy Reynolds Hay

Name and Title of Judicial Officer


Signature of Judicial Officer

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

Magistrate Number: *06-528m*

[UNDER SEAL]

AFFIDAVIT FOR
CRIMINAL COMPLAINT

I, Patrick Howley, being duly sworn, depose and state as follows:

1. I have been employed as a Special Agent of the FBI for approximately ten years. My experience includes investigations of crimes against children, to include kidnaping, child pornography, child exploitation and similar offenses. I have a Bachelors of Science degree in Finance and Accounting. Prior to working for the FBI, I was a Certified Public Accountant in the state of Michigan and worked in public accounting and industry. As part of my duties, I investigate violations of federal law, including activities relating to the Transportation of Persons for Illegal Sexual Activity in violation of Title 18, United States Code Section 2421, Transportation of Minors in violation of Title 18, United States Code Sections 2423 (a) & (b), Coercion and Enticement, in violation of Title 18, United States Code Section 2422, and the Sexual Exploitation of Minors in violation of Title 18, United States Code, Sections 2251 and 2252. I have gained experience through training in seminars, classes, and everyday work related to conducting these types of investigations.

2. The investigation is the result of joint efforts of the FBI and Pennsylvania State Police beginning November 18, 2006.

3. This affidavit is made in support of an application for a criminal complaint for Joseph Simon for a violation of Title 18, United States Code, Section 2422(a).

4. The joint investigation revealed that the female victim, a minor child, resides with her mother in San Bernardino, California, and three sisters and a nephew. The minor child is the second oldest child in the household. The biological father does not reside with the victim and has not had consistent contact with the victim for approximately four years. The father has recently started seeing the victim again.

5. Sometime prior to November 9, 2006, JOSEPH SIMON, age 37, the subject of the investigation, met the victim who was waiting at a bus stop enroute to her residence in San Bernadino, California. SIMON asked the victim if she needed a ride, and she accepted. SIMON drove the victim to the train station. During the drive, SIMON asked the victim several questions to include if she drank or smoked, how old she was, and if she wanted to go on a trip. According to the victim, she told SIMON that she did not drink or smoke and that she was 15 years old. The minor child victim is in fact 15 years of age. SIMON also asked for the victim's telephone number. The victim declined to give her number but accepted SIMON's telephone number.

6. On approximately November 9, 2006, the victim had an argument with her mother. The victim telephoned SIMON and stated that she would go on the trip with him. The victim told SIMON that she could only be gone a few days. SIMON called the victim's home the following day seeking directions from Los Angeles to the victim's residence. The victim's mother, believing that the male caller was the victim's father, gave the phone to the victim and then assisted in providing directions to the home. The victim informed her mother that she was going to spend the night with her father and go shopping, and her mother agreed to let her go. The victim took two plastic bags with clothes and waited outside by the road for SIMON to arrive and departed with him.

7. SIMON drove the victim to his red 2000 Kenworth T2000 truck which they boarded and departed. SIMON told the victim that he was delivering fruit to different stores in various states. The victim stated that she fell asleep in the rear bunk compartment of the truck and when she awoke, SIMON advised that they were in Arizona. At some point on this first day of travel and while she was sleeping, she awoke to find SIMON on top of her and beginning to grope her. The victim told SIMON that she did not want to have sex with him as he was too old and she was only 15 years old. SIMON told the victim that if anyone asked, he would say she was 18. SIMON also informed the victim that if she did not have sex with him, he would leave her "in the middle of nowhere". The

victim, feeling she had no choice, complied with SIMON's demand.

8. When the victim awoke on the second day of travel, SIMON made some deliveries of his load and stopped at a truck stop. SIMON purchased some food for the victim and she took a shower. The victim was not feeling well and returned to the truck to sleep. The victim awoke at approximately noon on the third day of travel. SIMON purchased food for the victim and informed her that they were in Atlanta. SIMON again began touching the victim despite her asking him to stop, disrobed, and had sex with the victim. The victim went to sleep while SIMON drove the truck.

9. When the victim rose the next day, she believed they were at the same truck stop as the previous day. SIMON told the victim that a friend's truck had broken down and needed help. When they arrived where SIMON's friend was, SIMON woke the victim. The victim believes that they were in Cincinnati at this time. When it was time to sleep, SIMON lowered the top bunk for his friend and SIMON slept in the lower bunk with the victim. SIMON again began groping and touching the victim between her legs but she pushed him away. SIMON informed the victim that she was "lucky" that his friend was there. The following day, SIMON helped his friend get his truck operating and the friend left.

10. The owner of truck driven by SIMON is ERIC COPELAND. COPELAND owns a trucking company which operates two trucks, one driven by SIMON and the other driven by JAMES HEADEN. COPELAND

informed your affiant that HEADEN's truck did indeed experience a starter problem which SIMON assisted in repairing the week of November 12, 2006.

11. HEADEN was contacted by your affiant who advised that in Cincinnati, the starter failed on his truck and he contacted SIMON to assist him. SIMON arrived with a passenger that SIMON described as a friend from California. HEADEN recalled that the female passenger slept a lot. When HEADEN slept in SIMON's truck that night, he slept on the top bunk while SIMON and his friend slept in the bottom bunk. SIMON assisted HEADEN with some deliveries and the repair of his truck. They parted ways the following day.

12. After SIMON's friend left, SIMON allowed the victim to get something to eat. The victim returned to the truck to find SIMON laying down in the back. The victim attempted to lie down also but SIMON began to grope her and rub between her legs. The victim told SIMON that she was tired, and tried pushing him and his hands away. SIMON pushed the victim's hands away, laid on top of the victim, and had sex with her. They both subsequently went to sleep.

13. The following day, when the victim awoke, she learned that they were in Pennsylvania and had stopped at a truck stop. The victim purchased food at the restaurant and returned to the truck. After they watched a movie, SIMON again began to rub

between the victim's legs and then tried to find a condom. Finding none, SIMON returned to the truck stop store and purchased some condoms, cigarettes, "swisher sweets" and another movie. SIMON had the victim roll a marijuana "blunt" which they smoked. The victim then went into the bunk to sleep and was followed by SIMON. The victim pretended to sleep to avoid having sex with SIMON.

14. "Swisher Sweets" is an inexpensive cigar which is commonly referred to as a "blunt". "Blunt" has become a slang term for a marijuana cigar. The Swisher cigar can easily be sliced open and the loose tobacco is often replaced with marijuana. The victim stated that marijuana is what was packed in the blunt which they smoked.

15. The victim awoke the next day and, after getting some food to eat, asked SIMON when they would be returning to California. SIMON responded not until "next Saturday" (in one more week) as he had delivered all of his load and was waiting to pick up another load. (SIMON made the remark on Saturday, November 18, 2006). The victim asked to use SIMON's phone which she used to call her friend to ask her to contact the victim's mom. After this call, the victim went into the restaurant and sought assistance in contacting the police.

16. The Pennsylvania State Police responded and took the victim to the Belle Vernon barracks to be interviewed. Subsequently, a man matching the description of SIMON was seen

roaming the parking lot of the truck stop and apparently searching for a missing girl. PSP returned to the truck stop and detained SIMON.

17. The Pennsylvania Criminal Code, 18 PACS §§ 3123, involuntary deviate sexual intercourse and § 6301, corruption of the morals of a minor, and § 6318, unlawful contact with a minor, each prohibit the above-mentioned sexual contact between an adult and a minor. Further, Arizona Revised Statutes prohibit sexual conduct with a minor and sexual intercourse with a person without their consent pursuant to 13 A.R.S. §§ 13-1405, 13-1406; Ohio Revised Code, 2 R.C. §§ 2907.02 and 2907.4, prohibits the above-mentioned sexual conduct between an adult and a minor; and Georgia's Annotated Code, §§ 16-6-1 and 16-6-3, prohibits the above-mentioned sexual conduct between an adult and a minor.

16. I am aware that 18 U.S.C. §2422 provides:

§ 2422. Coercion and enticement


(a) Whoever knowingly persuades, induces, entices, or coerces any individual to travel in interstate or foreign commerce, or in any Territory or Possession of the United States, to engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title or imprisoned not more than 20 years, or both.

(b) Whoever, using the mail or any facility or means of interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States knowingly persuades, induces, entices, or coerces any individual who has not attained the age of 18 years, to engage in prostitution or any sexual

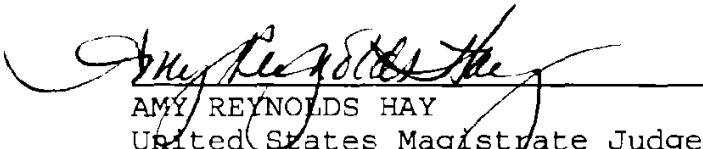
activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title and imprisoned not less than 5 years and not more than 30 years.

17. Based on this information, your affiant submits there is probable cause to believe that Joseph Simon violated Title 18, United States Code, Sections 2422, and did knowingly persuade, induce, entice, and coerce an individual who has not attained the age of 18 years, to engage in prostitution or any sexual activity for which any person can be charged with a criminal offense, or attempted to do so.

18. In consideration of the foregoing, Your Affiant respectfully requests that this Court issue an order authorizing the arrest of Joseph Simon on charges of coercion and enticement in violation of Title 18, United States Code, Section 2422(a).


Special Agent Patrick Howley
Federal Bureau of Investigation

SUBSCRIBED TO AND SWORN TO
BEFORE ME THIS 12th DAY OF
December, 2006


AMY REYNOLDS HAY
United States Magistrate Judge